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No. 485

**In the  
Supreme Court of the United States**

OCTOBER TERM, 1963

LOCAL 20, TEAMSTERS, CHAUFFEURS AND HELPERS  
UNION, an affiliate of the International Brother-  
hood of Teamsters, Chauffeurs, Warehousemen  
and Helpers of America, *Petitioner,*

vs.

LESTER MORTON, d/b/a LESTER MORTON TRUCKING  
COMPANY, *Respondent.*

**PETITIONER'S REPLY BRIEF IN SUPPORT OF  
PETITION FOR WRIT OF CERTIORARI**

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*Counsel for Petitioner.*

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## TABLE OF CASES

	Page
<i>Alpert v. Local 379, Teamsters</i> , 184 F.Supp. 358 (D. Mass.) .....	8
<i>American Steel Foundries v. Tri-City Council</i> , 257 U.S. 184 .....	5
<i>Angel v. Bullington</i> , 330 U.S. 183.....	7
<i>Carolina Lumber Co.</i> , 130 NLRB 1438.....	8
<i>Carpenters Local 1976 v. Labor Board</i> , 357 U.S. 93..	7, 8
<i>Lauf v. E. G. Shinner &amp; Co.</i> , 303 U.S. 323.....	7
<i>NLRB v. Local 294, Teamsters</i> , 298 F.2d 105.....	8
<i>San Diego Building Trades Council v. Garmon</i> , 359 U.S. 236 .....	6
<i>Schultz Refrigerated Service</i> , 87 NLRB 502.....	5
<i>United Plant Guards of America (Houston Ar- mored Car Company, Inc.)</i> , 136 NLRB 110.....	5
<i>Woods v. Interstate Realty Co.</i> , 337 U.S. 535.....	7

## STATUTES

<i>National Labor Relations Act</i> , as amended, 61 Stat. 136, 73 Stat. 519, 29 USC Sec. 151 <i>et seq.</i>	
§ 7 .....	5, 9
§ 8(b)(4) .....	7, 8
§ 13 .....	5, 9
§ 303 .....	7, 8

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If the record in this case supported Respondent's claim that violence or a clear and present danger of violence existed during the course of the Local 20's strike (August through October, 1956), a petition for writ of certiorari would not have been filed in this case. If Respondent had not misrepresented the record in this case, this reply brief would not have been filed.

1. This case does not involve violence or a threat of violence. The theme of Respondent's brief in opposition is that Respondent's employees who worked during the strike did so under the shadow of a reign of terror. Or as Respondent put it—in italics:

“A non-striking employee accompanied by other

non-striking employees, crossing a picket line while being subjected to name calling and indecent gestures (as happened in *Youngdahi*) is not nearly as vulnerable to actual violence as is a non-striking employee who alone leaves the primary site in a truck to be followed by strikers and to be alone encountered by other strikers at rural gravel pits."

The trial of this case required about five days and extended over several weeks due to a crowded court calendar. The testimony of twenty-six witnesses is spread over a 683-page transcript. Respondent's claim of a reign of impending terror is based on one witness and one witness only. The witness—one Taulbe—was working for Respondent at the time of trial and was one of the strikers during the 1956-strike (R. 312a).

On direct examination Taulbe testified that he did not want to return to work because Local 20 had on occasion followed Respondent's trucks and "that would end up in me maybe getting hurt" (R. 315a). There is not one iota of similar evidence in the 683-page transcript of testimony.

The cross-examination of Taulbe which followed affirmatively demonstrated that there had been no violence or threat of violence. Thus, Taulbe admitted that "No one was hurt as I know of" (R. 316a), that no one was "hurt on the picket line" (R. 317a), that no trucks were damaged and no drivers were injured (R. 318a), and that his concern over "maybe getting hurt" (R. 315a) was "based on a lot of talk . . . by . . . all the guys" (R. 317a). Taulbe also admitted "I didn't support it [the strike] too much. I was mostly a bystander and the other guys talked it up, not me" (R. 317a).

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This same witness attended the secret ballot strike vote meeting and volunteered the information that he had "voted not to strike" (R. 316a).

Moreover, Respondent's driver payroll during the strike renders utterly untenable the suggestion that Respondent's employees were concerned over their physical safety. The strike commenced on August 16, 1956 (R. 239a, 256a) and ended in early October of that year (R. 256a). During that period, Respondent's driver payroll was as follows (R. 500a):

<i>"Payroll Week Ending</i>	<i>No. of Drivers</i>
"8/18	32
"8/25	20
"9/1	29
"9/8	32
"9/15	30
"9/22	33
"9/29	34
"10/6	37"

Witness Taulbe admitted that he was aware of the fact that drivers were working during the strike (R. 317a-318a). In this connection he was asked (R. 318a):

"Q. The fact of the matter is that anybody that wanted to go in or out of those premises did so without anybody interfering with him in any physical manner, isn't that true?

"A. Well, as far as I know it is. *I never seen no trouble.*" (Italics ours)

Thus, the valley of terror so eloquently portrayed in Respondent's Brief is based exclusively on the testimony of one man and that man "never seen no trouble"



(R. 318a). Indeed the findings of fact, which were prepared by Respondent, state (R. 622a):

"At no time during the strike period, to-wit, August 17, 1956 to October 5, 1956, both inclusive, was violent conduct indulged in."

In short, there is not a scintilla of evidence in the record to support a claim of violence, threat of violence or intimidation. Respondent by conclusion and insinuation cannot make it otherwise. For example, at pages 17 and 18 of his brief Respondent states:

"The Respondent's employees were *further intimidated* by repeatedly encountering the Teamsters Union's unlawful pickets at the premises of Respondent's suppliers and customers (67-68a, 71a, 88a, 128-9a, 132-3a, 257a; 79a, 80-1-2a)." (Emphasis ours)

The cited pages are attached for the convenience of the Court as an appendix to this brief. *Not one word* of testimony is to be found on those pages to support Respondent's assertion that his drivers who were working during the strike were "further intimidated" by Local 20's roving-situs pickets.

For example at one of the pages cited by Respondent, a Local 20 picket, who was picketing at a quarry, testified (R. 88a):

"Q. Now, were trucks going in and out of the France Stone Company premises on the day that you were there?

A. There was a lot of trucks going in and out of there.

\* \* \*

"Q. Did any of those drivers turn away, refuse to go into the premises of France Stone Company when you were there with your picket sign?

A. That day?

Q. Yes.

A. No."

The foregoing is typical of the evidence of "intimidation" relied upon by the Respondent. Fairly read the record warrants the conclusion that Local 20's pickets probably were discouraged but the suggestion that the record shows Respondent's drivers were intimidated is mendacious.

Moreover, in the absence of violence or threat of violence—and there was none—a claim that peaceful picketing discourages strike-breakers, employed by the primary employer, from working for the primary employer is completely irrelevant. Sections 7 and 13 of the Act guarantee the right to strike. And this guarantee is obviously broad enough to encompass an effort to discourage, by peaceful means, non-striking employees of the primary employer from working during the strike. Indeed, the right exists independently of the Act. *American Steel Foundries v. Tri-City Council*, 257 U.S. 184, 209. Throughout the history of the Act, as applied to labor organizations, the Board has recognized under the roving-situs doctrine the right of a union to follow the trucks of the primary employer to the premises of a neutral employer and to picket at the premises of the neutral employer while the truck of the primary employer was unloading. *United Plant Guards of America (Houston Armored Car Company, Inc.)*, 136 NLRB 110, 111; *Schultz Refrigerated Service*, 87 NLRB 502. In short, inducing non-striking employees of the primary employer to support a strike violates no federal law.

2. The state courts lacked jurisdiction over Respondent's state common law claim; accordingly the federal courts lacked pendent jurisdiction to entertain the claim. On August 14, 1958 Plaintiff filed a damage action in the Common Pleas Court of Seneca County, Ohio (R. 604a). The common law "secondary boycott" allegations of the complaint filed in the state court damage action (R. 604a-607a) are substantially identical to the common law violations alleged in the three complaints filed in this case (R. 7a-14a, 18a,-21a). The state court damage case was dismissed on the ground "that the Court does not have jurisdiction of the subject matter under the decision . . . in *San Diego Building Trades Council v. Garmon*, 359 U.S. 236" (R. 610a). In view of this undisputed juridical fact, there is no occasion to speculate about the existence of state jurisdiction. There was none and the Ohio courts said so.

The twenty-odd pendent jurisdiction cases cited by Respondent on pages 11 through 13 of his brief are not in point. In each of those cases the state court had jurisdiction over the state claim; whereas in this case, the state court did not have jurisdiction over the state claim. Hence, in this case, the court below lacked jurisdiction over the state claim.

Respondent's suggestion, made for the first time in this Court, that the courts below were actually basing their decision on the presence of imminent violence is untenable. In the first place, as we have demonstrated there was no violence or danger of violence. Secondly, the district court said (R. 644a):

Although the punitive damages awarded in the *Meadow Creek* and the *Osborne* cases, *supra*, were

predicated substantially upon the extreme violence that pervaded the strikes, we can see no reason why the award of punitive damages should be limited to cases where violence was engaged in."

Thirdly, the Court of Appeals said (Pet. App. B., pg. 32):

"Defendant contends that since there was no violence in the instant case a different rule applies. We are not aware of such a distinction. . . ."

Finally, Respondent in his brief in the Court of Appeals (pg. 29) said:

"It is *indeed* the Plaintiff's theory 'that the rule of preemption does not bar federal courts from applying state law which state courts cannot apply and awarding damages based upon such state law which the state courts cannot award.' " (Italics in original)

Accordingly, it is respectfully submitted that the courts below asserted pendent jurisdiction on the theory that federal courts may entertain state claims which state courts cannot. The uniform course of decision in this Court is to the contrary. *Lauf v. E. G. Shinner & Co.*, 303 U.S. 323, 328; *Angel v. Bullington*, 330 U.S. 183, 191-192; *Woods v. Interstate Realty Co.*, 337 U.S. 535, 537-538.

3. The issues presented are of general importance to the administration of the Act. Section 303 of the Act, which now incorporates Section 8(b)(4) by reference, does not condemn "secondary boycotts" rather "it describes and condemns specific union conduct directed to specific objectives. . . ." *Carpenters Local 1976 v. Labor Board*, 357 U.S. 93, 98. In this case conduct which was and is not unlawful under Section 303 has been

made the basis of a federal court damage award by reliance on state law which the state courts had no jurisdiction to administer. The conduct involved consisted of Local 20 "contact[ing] the management of Launder & Son, Inc. and ask[ing] that [Respondent's] trucks not be permitted to work... during the strike" (R. 625a). Such conduct did not violate Section 8(b) (4) or 303 prior to its amendment in 1959 (*Carpenters Local 1976 v. Labor Board*, 357 U.S. 93) or as it reads today.<sup>1</sup> See e.g.: *Carolina Lumber Co.*, 130 NLRB 1438; *NLRB v. Local 294, Teamsters*, 298 F.2d 105; *Alpert v. Local 379, Teamsters*, 184 F.Supp. 358 (D. Mass.). Accordingly, this case presents an issue of continuing importance which is in no way affected by the 1959 amendments to the Act.

Moreover, the so-called "totality of conduct" rule invoked in this case by the courts below is judge-made law and, if legitimate, is applicable to actions under Section 303, irrespective of whether the claim arose prior or subsequent to 1959.

The Respondents would have this Court view the case as one in which the various elements of financial loss cannot be easily segregated. Yet in his accountants' exhibits (R. 475a), in Local 20's accounting exhibits (R. 515a), in the findings of fact, and in Respondents' statement of the Case, each customer account was segregated. One need not guess as to the reason Respondent lost the Wilson account for which \$9,300 damages were

<sup>1</sup> Section 8(b) (4) now prohibits, in addition to the inducement of "individuals," "threats, restraints or coercion" of persons if there is evidence of a proscribed object.

assessed under the totality of conduct rule. For Respondent's witness, Kent Wilson, testified (R- 229a):

"Q. Do you know why [Respondent] didn't haul pursuant to his contract?"

"A. Mr. Morton come down and told me, he says he had no drivers, and he said that he was sorry that he left me holding the bag because the purchase order didn't have anything on it about that he was going to haul."

To award substantial damages for the loss of the Wilson account is to make a mockery of Sections 7 and 13 of the Act which guarantee the right to strike.

Respondent uses the term "malicious and wanton" nine times in his brief<sup>2</sup> and the term "intimidation" eleven times,<sup>3</sup> however, there is no evidence in the record which warrants the use of either.

### CONCLUSION

For the foregoing reasons the petition for writ of certiorari should be granted.

Respectfully submitted,

DAVID PREVIAINT

DAVID LEO UELMEN

212 West Wisconsin Avenue  
Milwaukee, Wisconsin

*Counsel for Petitioner.*

<sup>2</sup> Resp. Br., pp. 3, 4, 5, 7, 8, 9.

<sup>3</sup> Resp. Br., pp. 2, 3, 4, 8, 17, 18, 19, 21.



# APPENDIX A

## EXCERPTS FROM TRANSCRIPT OF RECORD

	<i>Appendix Page</i>
R. 67a .....	3
R. 68a .....	4
R. 71a .....	5
R. 88a .....	6
R. 128a .....	7
R. 129a .....	8
R. 132a .....	9
R. 133a .....	10
R. 257a .....	11
R. 79a .....	12
R. 80a .....	13
R. 81a .....	14
R. 82a .....	15

*Testimony of John W. Combs*

A. Yes, there could have been, but it has been so long ago I don't rightly remember.

Q. Yes, I understand. How did you happen to go to the France Stone Company property?

A. Well, Mr. Evans took me and my brother Joe  
84 out there first and we stood picket out there.

Q. Who is Mr. Evans?

A. That is one of the union officials.

Q. Of what union?

A. The Teamsters Union, Local 20.

Q. Where is the office of that Teamster Local?

A. In Fremont, Ohio.

Q. Who else besides you and Mr. Evans went out to the property of the France Stone Company?

A. Me and my brother Joe and Mr. Evans.

Q. Joe Combs?

A. Yes, sir.

Q. Your brother?

A. Yes, sir.

Q. Did you appear first at the Morton property that day?

A. Yes.

Q. What did Mr. Evans say to you?

A. That morning he told me and my brother that we had to go somewhere and so we got in his car and he drove out to the France's rock quarry, and then out there he put me at one entrance and my brother at the other and we put up signs that Mr. Morton was on strike at both entrances.

Q. This is the day you got the court order?

A. I can't say for sure. I believe it was a day before or right after we got the court order.

85 Q. Or perhaps right after you got the court order?

A. Yes, sir, it wasn't long after.

Q. Now, you mentioned something about a sign or signs out at France's, did you not?

*Testimony of John W. Combs*

A. Yes, sir.

Q. Did you take those signs with you out there?

A. Yes, sir.

Q. More than one sign?

A. Yes, sir, there was.

Q. About how many signs did you take out to France's Stone Quarry that day?

A. There was a stack of signs in the car, but we just used around six of them, I would say.

Q. What did these signs say?

A. That Local 20 of Teamsters Union, to the best of my knowledge, was striking Lester Morton.

Q. Who drove the automobile out there to France's?

A. Well, I followed Larry out there in my car.

Q. You drove your own car out there?

A. Yes, sir.

Q. And Mr. Evans drove a car?

A. Yes.

Q. Was anyone else with Mr. Evans?

A. My brother Joe was with him.

Q. Joe Combs?

6 A. Yes, sir.

Q. And was anyone with you in your automobile?

A. No, I was by myself. I stayed at a different entrance to the quarry. I was over there by myself.

Q. Can you recall about what time of the day you left the Morton property for the France Stone Company?

A. I guess around ten o'clock in the morning.

Q. How far was the France Stone Company quarry from here?

A. Just guessing, I would say seven or eight miles.

Q. You drove directly there?

A. Yes.

Q. You were following Mr. Evans' automobile, were you?

*Testimony of John W. Combs*

A. Yes.

Q. Do you know his first name?

A. No, I don't remember it.

Q. Would it be Ransom, R-a-n-s-o-m?

A. Ransom, yes.

Q. Did anyone pass by you as you were standing there at that entrance?

A. Yes. There was trucks going in and out where I was at; practically every once in awhile one would go in or out.

Q. Did you recognize any of the people in any of those cars or trucks?

A. No, sir, I didn't.

Q. Did you speak with any of them?

A. No.

Q. Do you know about what time The France Stone Company employees quit work that day?

A. I don't know for sure, but I believe they quit around five or six o'clock. I couldn't say for sure.

Q. And I believe you testified that you did go to the other entrance before you left that day?

A. Yes, I did.

Q. What did you see there, or who did you see there?

90 A. Me and my brother and Mr. Evans was there, and our reliefs, the guys that come to stand in our place was there.

Q. So that you saw at the other entrance your brother, Joe Combs?

A. Yes, sir.

Q. Mr. Evans and Mr. Tallbee?

A. Yes.

Q. And Mr. Nye?

A. Yes.

Q. What were they doing there when you arrived?

A. I think they was just by their cars and I think they

*Testimony of John W. Combs*

A. I wouldn't say altogether, because I come back there lots of times when I wouldn't be on duty and I would stop and talk with them for a while.

Q. You have testified on direct examination concerning some activities at the France Stone Company. You told us that you went to that stone company with Mr. Evans and your brother Joe; do you recall that?

A. Yes, sir.

Q. And you testified that you personally and your brother Joe as well were engaged in carrying signs at the France Stone Company premises, is that right?

A. That's right.

Q. Now, were trucks going in and out of the France Stone Company premises on the day that you were there?

113 A. There was a lot of trucks went in and out of there.

Q. Whose trucks did you see there?

A. Some of Mr. Morton's trucks was there.

Q. How long after the strike began was it that you went out to France Stone Company, over a week?

A. It might have been about a week. I couldn't say for sure. It has been so long ago.

Q. In any event, at about the time you were there at the France Stone Company's premises Mr. Morton had some of his drivers driving company equipment?

A. Yes, there was some drivers still working.

Q. Did any of those drivers turn away, refuse to go into the premises of France Stone Company when you were there with your picket sign?

A. That day?

Q. Yes.

A. No.

Q. Were there any that refused to come out, that is, left their trucks and equipment at the France Quarry when you were picketing there, Mr. Combs?

*Testimony of Mr. Howard Stultz*

A. Yes.

Q. Did you work during the strike?

A. Yes.

Q. Did you picket at all?

A. No.

Q. Did you work on the first day of the strike?

A. Yes.

Q. What did you do that day?

A. I worked in the garage as a mechanic.

Q. You did not drive a truck that day?

A. No.

Q. Did you drive a truck at all during the strike?

A. Yes.

Q. What was the first day you drove a truck during  
178 the strike; that is, how many days after the strike  
began?

A. About the third or fourth day; I don't just recall  
now just how many days it was.

Q. Did anyone else drive a truck that day for Morton?

A. Yes; Vernon Bean and Clifford Smith.

Q. Did you work together in a group?

A. Yes.

Q. What did you do?

. . . . .

Q. (By Mr. Stauffer) Mr. Stultz, what did you do that  
day?

A. Hauled sand into Toledo.

Q. Where in Toledo?

A. To Schoen Asphalt Paving Company.

Q. You were driving dump trucks?

A. That's right.

Q. Did you leave the Morton premises loaded with sand?

A. No.

. . . . .



*Testimony of Mr. Howard Stultz*

Q. Where did you get the sand?

A. At Dolomite, Inc.

179 Q. Where is that located?

A. Maple Grove.

Q. And where is Maple Grove?

A. About nine miles north of Tiffin.

Q. Where is the Schoen Asphalt Paving Company located?

A. In Toledo, Ohio.

Q. You drove there that day?

A. Yes.

Q. What did you observe when you got there? Did you observe anything unusual?

A. Well, there was some automobiles setting there.

Q. There were automobiles setting where?

A. At Schoen Asphalt Paving Company.

Q. Inside the gate or on the street?

A. Outside.

Q. Did you see any people standing about the automobiles, standing by the automobiles?

A. Yes.

Q. What were they doing?

A. Just standing around the cars talking.

Q. Did you see any signs?

A. No.

Q. What did you do? Did you drive on in?

A. Yes.

Q. Then what did you do? Did you then unload your sand?

180 A. No.

Q. What did you do with your truck?

A. I left it sit.

Q. You left your truck sit?

A. That's right.

Q. What about the other two trucks?

*Testimony of Mr. Howard Stultz*

Q. What did that sign say, if you can recall?

A. "Morton Trucking Company on Strike," or  
183 something to that effect.

Q. Was any union's name on those signs, if you know?

A. I don't know. I don't remember.

Q. Where were you hauling to when you were going in and out of the France Stone Quarry?

A. To the Route 224 bypass around Tiffin.

Q. How far from the quarry was that, approximately?

A. Approximately ten miles.

Q. How many hours a day were you working on those particular days, Mr. Stultz?

A. An average, I suppose, of about nine hours a day.

Q. How late in the day did you work on those days?

A. I suppose around between 5:30 and 6:00.

Q. What was the latest time on each of those days that you came out of The France Stone Quarry?

A. Well, it would have to be 4:30 because they close at 4:30.

Q. Do you recall whether or not you saw that picket sign on your last trip out there?

A. I don't know.

Q. Did you see anyone at the entrance standing by with a sign?

A. Yes.

Q. Was there one person there or more than one person?

A. There was two.

Q. Did you recognize either one of them?

A. One day it was the two Combs boys.

184 Q. What are their first names? Would it be Jack and Joe?

A. Yes.

Q. Who else did you recognize there with the signs?

A. And Nye.

*Testimony of Mr. Howard Stultz*

Q. Who is Nye?

A. He was one of the fellows on strike.

Q. He was an employee of Morton?

A. Yes.

Q. Was he the union steward, if you know?

A. I don't know if he was the union steward then or not.

Mr. Stauffer: You may cross-examine.

. . . . .

**Cross-Examination, by Mr. Hafer.**

Q. On the day or two, Mr. Stultz, that you saw picket lines at the France Quarry did you proceed to cross the picket line and go into the quarry to be loaded?

A. Yes.

Q. What were you picking up on that day? What was the nature of the load you were traveling with?

A. No. 1 and No. 2 stone.

Q. Did you have any difficulty getting loaded when you drove into the quarry area?

185 A. No.

Q. Was that true on both of the days you observed the pickets out there?

A. Yes.

Q. In point of distance, Mr. Stultz, how far was the picket sign that you saw from the actual quarry area where the loading was done? Was it a mile, or more or less than a mile, a half-mile?

A. That would be less than a half-mile.

Q. Could you observe from the point where the pickets were placed the actual operation of the quarry; that is, the employees in the quarry?

A. Part of it.

Q. What part of the operation could you see from that distance?

A. The part where they were loading.

*Testimony of Mr. Lester Morton.*

Q. During the course of the strike did you ever go to The France Stone Company?

A. Yes, I did.

Q. Did you see anything unusual on any of your trips there?

A. Yes, I did.

Q. What was that?

A. I saw a strike sign out at the entrance to the stone quarry.

Q. What did you do?

A. I got out of the car. I had my camera with me and I took a picture.

(Thereupon, the said photograph was handed to Mr. Hafer by Mr. Stauffer.)

Q. (By Mr. Stauffer) I hand you what has been marked Plaintiff's Exhibit 13, Mr. Morton, and ask you what it is.

A. That is the picture that I took.

Q. Do you know about when you took it?

376 A. I don't recall. It was next,—it was right around the 23rd or 24th, it was.

Q. Was it a few weeks after the strike began or a week?

A. It was the next week following the strike in August.

Q. Of what year?

A. 1956.

Q. There are two cars parked there. What road are they parked parallel with?

A. That is parallel with Route 19. That is a county road.

Q. Of what county?

A. A Seneca County road.

Q. What is the road that leaves that road at right angles in the photograph?

A. That is the roadway that goes into the quarry.

Q. Do you know whether that is a public or a private road?

*Testimony of John W. Combs*

into the quarry, but we didn't stop there. We turned around and came out and came back up there and waited while the trucks got loaded up for the trip.

Q. What did you do then?

A. We followed them into Toledo.

Q. How many trucks were there leaving the Maple Grove Quarry?

A. Three.

Q. There were still three trucks?

A. Yes.

Q. How many people were in this car you were in at that time, Mr. Combs?

A. There was four of us, counting Mr. Evans.

Q. That would be yourself, Mr. Evans, this Marcum fellow and Joe Combs?

A. Yes, sir.

The Court: The trucks were loaded with stone at the quarry?

A. Yes, sir.

The Court: With No. 8's?

A. I don't remember, sir.

Q. Is that a classification of sand?

A. Yes, sir, I think that's about what they classify it, as sand.

Q. You followed the trucks then?

101 A. Yes.

Q. And Mr. Evans was driving?

A. Yes.

Q. Was there any conversation in the car about what this was all about, what you were going to do?

A. No. We just followed them to see where they was going and we followed them into Toledo, and offhand I can't recall the name of the company they came to up here.

Q. What kind of a place was it?

*Testimony of John W. Combs*

A. It would be an asphalt place, I think, or blacktop mostly.

Q. You mean where they make it?

A. Yes.

Q. Would it have been The Schoen Asphalt Paving Company?

A. Yes.

Q. And you were following the trucks, Morton's three trucks to Toledo?

A. Yes.

Q. And you say that Mr. Evans was driving the car?

A. Yes, sir.

Q. What happened when you got there?

A. Well, we came up and,—

Q. (Interposing) Where did you stop?

A. Right out from the office there.

Q. Did you stop on the Schoen premises, if you  
102 know or remember, or did you stop down the street,  
or where?

A. We stopped right in front of the Schoen place. It would be close to it. I couldn't say for sure because it has been so long.

Q. Then what happened there at that time?

A. Then my brother Joe got out and he had one of the signs.

Q. What did the sign say, if you know?

A. It said that Morton and Teamsters Local 20 were on strike.

Q. Did you get out of the automobile?

A. I didn't get out. Mr. Evans talked to somebody, but I didn't hear the conversation.

Q. Then what happened, do you remember?

A. The trucks didn't get unloaded.

Q. How do you know that?

A. Well, Mr. Morton brought his drivers back and we



*Testimony of John W. Combs*

followed them almost back into Tiffin. They left the trucks there.

Q. Mr. Morton also drove to Schoen Paving Company in Toledo?

A. He was there a little while later, but I didn't see him when we pulled up. I couldn't say if he got there just before or after we got there.

Q. But you saw that the drivers left?

A. Yes.

Q. Did they leave in their trucks?

A. No.

Q. How did they leave?

A. In a car.

103 Q. Who was driving that car, if you recall?

A. It has been so long ago that I couldn't say for sure.

Q. Do you recall whose car it was or who was in it?

A. Well, I know Beany and Howard was there.

Q. Howard Stultz and Vernon Bean?

A. Yes.

Q. Two of the three truck drivers?

A. Yes.

Q. Was anybody else in that car? Was the third truck driver in that car?

A. Yes, I think he was in it, and Mr. Morton.

Q. Mr. Morton was in that car?

A. Yes, sir. To the best of my knowledge, those were the four in the car.

Q. What did you do while you were there at the gate of Schoen Asphalt Paving Company?

A. Well, my brother, he got out with a picket sign, but I didn't get out of the car. I stayed in the car. I opened the door once and got almost out and stood by the car a little while and then got back in the car. I didn't go away from the car.

*Testimony of John W. Combs*

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*Testimony of John W. Combs*

Q. What did you see your brother Joe do?

A. He got a picket sign out when he got out of the car with him; I think him and James, both.

Q. James Marcum?

A. Yes.

104 Q. They each got a sign?

A. Yes.

Q. What did they do with them?

A. They walked up to the gate entrance to the place and was there with the signs, just the same as walking picket.

Q. Did you see those signs?

A. Yes.

Q. What did they say, these signs?

A. That Local 20 Teamsters were on strike against Lester Morton's. To the best of my knowledge that is what they said.

Q. About how long were you there?

A. Right offhand I guess about an hour. I couldn't say for sure. It has been so long ago.

Q. You left after the three truck drivers and Mr. Morton left, is that it?

A. Right after they left, yes.

Q. When you left did you see those three trucks, before you left and after the drivers had left?

A. After they left?

Q. Yes.

A. Yes.

Q. Were those trucks then loaded or unloaded?

A. Loaded.

Q. The trucks were still loaded when you left?

A. Yes.

105 Q. Do you know of your own knowledge what happened to those trucks later?